

Shirk, Georgette L

From: Sohrakoff, Karen A
Sent: Monday, January 30, 2017 12:04 PM
To: Schwartz, Claudia R
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

Importance: High

From: Tomlyanovich, William J (Bill)
Sent: Monday, January 30, 2017 10:54:20 AM
To: Tarr, David S; Sohrakoff, Karen A
Cc: Gabree, Rene M; Hysmith, Tenner L; Dashner, Richard E
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

From HQ. It looks like we shouldn't work cases from the 7 countries during this visit. Bill

On January 27, 2017, the President signed an Executive Order that, in part, relates to the suspension of processing of certain immigration benefits. Section 3(c) of the Executive Order invokes sections 212(f) and 217(a)(12) of the INA to temporarily suspend the entry immigrants and nonimmigrants who are from Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya for 90 days from the date of the Executive Order.

While we await further guidance, we must temporarily suspend adjudication of all applications, petitions or requests involving citizens or nationals of the listed countries. At this point there are no exceptions for any form types, to include I-90s or I-765s. Please physically segregate any files that are impacted by this temporary hold pending further guidance. As you would expect, we will be developing a weekly report format for you to identify the number and types of cases on hold.

From: Dougherty, Linda M
Sent: Monday, January 30, 2017 8:59 AM
To: Tomlyanovich, William J (Bill)
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions
Importance: High

Hello Bill, just making sure you know this before you start working the TRIG cases at TSC. Nothing can be worked to completion. Hope you didn't have problems with the protesters enroute. Linda

From: Thompson, Kirt
Sent: Saturday, January 28, 2017 12:43 PM
To: Neufeld, Donald W; Baran, Kathy A; Campagnolo, Donna P; Crandall, Kristine R; Hazuda, Mark J; McCament, James W; Nolan, Connie L; Richardson, Gregory A; Selby, Cara M (Carrie); Velarde, Barbara Q; Zuchowski, Laura B; Tamanaha, Emisa T
Cc: Arroyo, Susan K; Bacote, Robert R (Bob); Byrne, Marie L (Louise); Cox, Sophia; Dougherty, Linda M; Douglas, Richard C; Doumani, Stephanie M; Fortes, Michael J; Hartmann, Rosemary M; Hope, Leslie K; Hutchings, Pamela G; Kane, Daniel J; King, Alexander R; La Bella, Magteld H; McConnell, James E; Moran, Karla; Padilla, April Y; Peck, Denis R; Sabga, George M; Thomas, Ronnie D; Watson, Dorcas B (Benita)

Subject: RE: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

Got it Don.

The TSC leadership has been notified of the temporary suspension and we will comply immediately.

Kirt

From: Neufeld, Donald W

Sent: Saturday, January 28, 2017 11:34:34 AM

To: Baran, Kathy A; Campagnolo, Donna P; Crandall, Kristine R; Hazuda, Mark J; McCament, James W; Nolan, Connie L; Richardson, Gregory A; Selby, Cara M (Carrie); Thompson, Kirt; Velarde, Barbara Q; Zuchowski, Laura B; Tamanaha, Emisa T

Cc: Arroyo, Susan K; Bacote, Robert R (Bob); Byrne, Marie L (Louise); Cox, Sophia; Dougherty, Linda M; Douglas, Richard C; Doumani, Stephanie M; Fortes, Michael J; Hartmann, Rosemary M; Hope, Leslie K; Hutchings, Pamela G; Kane, Daniel J; King, Alexander R; La Bella, Magteld H; McCament, James W; McConnell, James E; Moran, Karla; Neufeld, Donald W; Padilla, April Y; Peck, Denis R; Sabga, George M; Thomas, Ronnie D; Watson, Dorcas B (Benita)

Subject: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

Center Directors and Deputies,

On January 27, 2017, the President signed an Executive Order that, in part, relates to the suspension of processing of certain immigration benefits. Section 3(c) of the Executive Order invokes sections 212(f) and 217(a)(12) of the INA to temporarily suspend the entry immigrants and nonimmigrants who are from Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya for 90 days from the date of the Executive Order.

While we await further guidance, we must temporarily suspend adjudication of all applications, petitions or requests involving citizens or nationals of the listed countries. At this point there are no exceptions for any form types, to include I-90s or I-765s. Please physically segregate any files that are impacted by this temporary hold pending further guidance. As you would expect, we will be developing a weekly report format for you to identify the number and types of cases on hold.

We expect to issue more detailed guidance and procedures in the coming days.

Please ensure this guidance is conveyed as soon as possible to all appropriate employees and get back to us with any questions. Also, please reply to let me know each center has received this message.

Thanks,

Don

Shirk, Georgette L

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 1:16 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"
Attachments: EO 1-27 implementation guidance signed and dated.pdf

Reena,

Can you please advise me if based on this attached memo asylum offices can continue to adjudicate applications filed for suspension of deportation and cancellation of removal under NACARA 203?

In the first enumerated paragraph, the first sentence indicates that the E.O. "does not affect USCIS adjudications of applications and petitions filed for or on behalf of individuals in the United States [...]"

As the I-881 is filed by persons who claim eligibility for NACARA 203, I'm not sure that it falls under the category of "applications [...] filed for or on behalf of individuals in the United States."

The last sentence of first paragraph ("this includes, but is not limited to [...]") does not clarify the question as it isn't clear to what "this" refers.

I need to advise all offices as soon as possible. Thank you for your help.

Giacomo A. Picciotto
HQ-Asylum Division – Operations
[REDACTED] Mondays, Wednesdays, Fridays)
Tuesdays and Thursdays: by email or Skype only

(b)(6)

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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



U.S. Citizenship
and Immigration
Services

FEB 2 2017

Memorandum

TO: All USCIS Employees

FROM: Lori L. Scialabba *Lori Scialabba*
Acting Director

SUBJECT: Guidance Concerning Executive Order on Immigration

On January 27, President Trump signed an Executive Order entitled "Protecting The Nation From Foreign Terrorist Entry Into The United States." This memorandum provides guidance from the Department of Homeland Security (DHS) regarding the impact of this Executive Order on various immigration benefit requests.

All USCIS employees should be aware of current guidance from DHS, specifically:

1. Section 3(c) of the Executive Order does not affect USCIS adjudication of applications and petitions filed for or on behalf of individuals in the United States regardless of their country of nationality. Section 3(c) also does not affect applications and petitions by lawful permanent residents outside the United States, or applications and petitions for individuals outside the United States whose approval does not directly confer travel authorization (including any immigrant or nonimmigrant visa petition). This includes, but is not limited to, the matters discussed more specifically in paragraphs 2, 3 and 5 below.
2. Applications to Register Permanent Residence or Adjust Status (Form I-485) may continue to be adjudicated, according to existing policies and procedures, for applicants who are nationals of countries designated in the Executive Order.
3. USCIS will adjudicate Refugee/Asylee Relative Petitions (Form I-730) for all beneficiaries, from any country of nationality, currently in the United States according to

existing policies and procedures. Further guidance will be issued with respect to beneficiaries currently outside of the United States.

4. USCIS will continue refugee interviews when the person is a religious minority in his or her country of nationality facing religious persecution. Additionally, USCIS will continue refugee interviews in jurisdictions where there is a preexisting international agreement related to refugee processing. USCIS will not approve a refugee application for an individual who we determine would pose a risk to the security or welfare of the United States.
5. USCIS will continue adjudicating all affirmative asylum cases according to existing policies and procedures.

Questions concerning the information contained in this memorandum may be addressed via your directorate or program office through appropriate supervisory channels.

Shirk, Georgette L

From: Parikh, Reena
Sent: Monday, February 06, 2017 1:40 PM
To: Picciotto, Giacomo A
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Hi Giacomo,

NACARA 203 adjudications for persons in the U.S. should proceed.

Thanks,
Reena

From: Parikh, Reena
Sent: Monday, February 06, 2017 2:17 PM
To: Picciotto, Giacomo A
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Giacomo,

We'll confirm with our leadership and get back to you asap.

Thanks,
Reena

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 2:16 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

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Giacomo A. Picciotto
HQ-Asylum Division – Operations

(b)(6)

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Shirk, Georgette L

From: Groom, Molly M
Sent: Monday, February 06, 2017 1:38 PM
To: Parikh, Reena; Zengotitabengoa, Colleen R; Whitney, Ronald W
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Your understanding is correct—NACARA adjudications for persons in the US should proceed. Thanks

From: Parikh, Reena
Sent: Monday, February 06, 2017 2:31 PM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W; Groom, Molly M
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Dear Colleen, Ron, Molly:

We received the inquiry below from the asylum HQ NACARA POC. I'm not sure if RAIO previously advised the asylum offices (for that brief period) to hold off on all I-881 adjudications or something (which would be odd because the applicants typically aren't from the affected countries in the EO). Regardless, per Lori's attached guidance on the EO, it seems as if the adjudication of NACARA 203 applications should continue as per usual as the I-881 is an application and NACARA applicants are "individuals in the United States" per the language in the 1st paragraph of Lori's guidance.

Please advise at your earliest convenience.

Thanks so much,
Reena

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 2:16 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Reena,

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I need to advise all offices as soon as possible. Thank you for your help.

Giacomo A. Picciotto

HQ-Asylum Division – Operations

[REDACTED] Mondays, Wednesdays, Fridays)

Tuesdays and Thursdays: by email or Skype only

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From: Duggan, Patricia A (Patty)
To: Finley, William L (Bill); #CIS OCC FIELD CHIEFS; #CIS OCC FIELD DEPUTIES
Subject: RE: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Field Operations Instructions
Date: Monday, January 30, 2017 11:45:55 AM

FYI – followed by this. –thx, Patty

From: Renaud, Daniel M
Sent: Sunday, January 29, 2017 4:00:29 PM
To: Cowan, Robert M; Looney, Robert V; Muzyka, Carolyn L; Pietropaoli, Lori A; Redman, Kathy A; Gallagher, Kevin E; Goodwin, Shelley M; Robinson, Terri A; Tierney, Therese A; Woo, Ellen Y; FOD-DDs-DDDs-COS; FOD-FODs
Cc: Dominguez, Kathleen P; Upchurch, Evelyn M; Kendrick, Rose M; Quimby, Christopher M (Chris); Rinehart, Brett R; Sapko, Jeffrey M; Spencer, Julie C; Young, Claudia F; Valverde, Michael; Neufeld, Donald W; Kvortek, Lisette E; Farnam, Julie E; Slattery, Shannon E; Renaud, Tracy L; Davidson, Andrew J; Scialabba, Lori L
Subject: RE: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Field Operations Instructions

Field Offices may continue to adjudicate N-400 and N-600 applications and administer the oath of citizenship for approved candidates who remain eligible. This message lifts the hold on citizenship applications and petitions.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Finley, William L (Bill)
Sent: Monday, January 30, 2017 8:38 AM
To: #CIS OCC FIELD CHIEFS; #CIS OCC FIELD DEPUTIES
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Field Operations Instructions
Importance: High

FYI

William "Bill" Finley
Chief, CLD, OCC, USCIS, DHS



(b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:12:16 AM
To: Cowan, Robert M; Looney, Robert V; Muzyka, Carolyn L; Pietropaoli, Lori A; Redman, Kathy A; Gallagher, Kevin E; Goodwin, Shelley M; Robinson, Terri A; Tierney, Therese A; Woo, Ellen Y; FOD-DDs-DDDs-COS; FOD-FODs

Cc: Dominguez, Kathleen P; Upchurch, Evelyn M; Kendrick, Rose M; Quimby, Christopher M (Chris); Rinehart, Brett R; Sapko, Jeffrey M; Spencer, Julie C; Young, Claudia F; Valverde, Michael; Neufeld, Donald W; Kvortek, Lisette E; Farnam, Julie E; Slattery, Shannon E; Renaud, Tracy L; Davidson, Andrew J; Scialabba, Lori L

Subject: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Field Operations Instructions

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Effectively immediately and until additional guidance is received, you may not take final action on any petition or application where the applicant is a citizen or national of Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya. Field offices may interview applicants for adjustment of status and other benefits according to current processing guidance and may process petitions and applications for individuals from these countries up to the point where a decision would be made. At that point, cases shall be placed on hold until further notice and will be shelved with specific NFTS codes which will be provided through the Regional Offices. Offices are not permitted make any final decision on affected cases to include approval, denial, withdrawal, or revocation.

Please look for additional guidance later this weekend on how to process naturalization applicants from one of the seven countries listed above who are currently scheduled for oath ceremony or whose N-400s have been approved and they are pending scheduling of oath ceremony.

We expect to issue more detailed guidance and procedures as needed in the coming days. Questions or requests for additional clarification may be directed to the Regional Offices through your chain of command.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Radel, David M
Sent: Tuesday, January 31, 2017 3:56 PM
To: #ZLA All Employees
Subject: RE: Recent Executive Order

A tad more guidance on this issue, as I know that inquiries may be already coming your way from applicants and attorneys. Although we do not have any information to share with external stakeholders at this time, you may direct them to the USCIS.gov, DHS.gov, WhiteHouse.gov for additional information and future updates on the Executive Orders. You may also forward any specific, written inquiries to Marianne and me so that we may forward them on to USCIS HQ for response. Thank you all and please let me know if I can provide you with any additional information or support. Best, David

From: Radel, David M
Sent: Monday, January 30, 2017 3:06 PM
To: #ZLA All Employees
Subject: RE: Recent Executive Order

All: Please note that this guidance should not be discussed with external stakeholders; any stakeholder questions can be directed to a supervisor, Marianne, or me. Thank you, David

From: Radel, David M
Sent: Monday, January 30, 2017 7:06 AM
To: #ZLA All Employees
Subject: RE: Recent Executive Order
Importance: High

One new instruction for APSO: If any individual is referred for us for CF/RF processing who was denied admission as a result of the EO, please notify me, Marianne, and Lisa ASAP (so that we can then notify HQASM). We may proceed with CF/RF processing in these cases unless instructed otherwise. Thank you, David

From: Radel, David M
Sent: Sunday, January 29, 2017 12:48 PM
To: #ZLA All Employees
Subject: Recent Executive Order

Hello All:

Effective immediately, we have been instructed to prevent any asylum decision document from being issued in person or by mail to a national of any of the following countries unless or until we are instructed otherwise:

Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya

Please ensure that until further notice, no applicant from the countries above is served as asylum decision document in person or by mail. Any cases PUSHing should get mail-out notices and the cases will remain pending with out office until further notice.

You and your team members should continue to process these cases up to the point of decision service, but may not serve the decision documents at this time.

At this time, we may continue to serve APSO decision documents on individuals from these countries, just not asylum decision documents.

If you have any questions, please let me know.

Thank you,
David.

From: Ruppel, Joanna
Sent: Wednesday, February 08, 2017 9:25 AM
To: RAIO - ALL1
Subject: CORRECTED: Executive Order Updates and Refugee Processing

With link correction. Thanks to Heide for noting it for me! If anyone else finds an error, please jump in.

Joanna

From: Ruppel, Joanna
Sent: Wednesday, February 08, 2017 12:13 PM
To: RAIO - ALL1
Subject: Executive Order Updates and Refugee Processing

RAIO Colleagues,

As stated in the USCIS Broadcast, U.S. Citizenship and Immigration Services has suspended any and all actions implementing the affected sections of the Executive Order entitled, "Protecting the Nation from Foreign Terrorist Entry into the United States" (January 27, 2017) (these affected sections are Sections 3(c), Section 5(a), Section 5(b), Section 5 (c) and Section 5 (e) to the extent that it purports to prioritize refugee claims of certain religious minorities).

USCIS has resumed approving refugee cases that are otherwise eligible for refugee resettlement. The travel schedule of these approved cases will be determined by the Department of State so as not to exceed the refugee ceiling set by the current Administration. At this time, USCIS generally will not be regularly conducting refugee interviews in international field offices, or deploying additional circuit rides this quarter other than select, previously scheduled circuit rides. USCIS will coordinate other possible interviews, including urgent humanitarian protection cases, at the request of the Department of State. The previously organized trainings for credible fear will move forward as scheduled.

USCIS, including RAIO headquarters staff, is participating in intra and inter-agency working groups established to implement the Executive Order and field input will be sought as appropriate.

Many of you have expressed interesting in learning more about the ongoing litigation relating to the Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States. Oral arguments on whether or not to lift the temporary restraining order took place yesterday before the 9th Circuit Court of Appeals. You can listen to a recording of the oral arguments and find information about the litigation on the 9th Circuit's website:

https://www.ca9.uscourts.gov/content/view.php?pk_id=0000000860

Information about the Executive Orders that impact USCIS can be found on USCIS Connect:

<http://connect.uscis.dhs.gov/org/CL/Pages/Presidential-Actions.aspx>

And information more specific to RAIO can be found on the RAIO ECN (this site is still a work in process):

<http://ecn.uscis.dhs.gov/team/raio/Pages/RAIO.aspx>

Finally, I would like to apologize for confusion that arose when all RAIO staff were scheduled for a Town Hall. That was based on a miscommunication error on my part. I had requested an all hands meeting for "Directorate staff," meaning the RAIO Program Chiefs and their staff. In my capacity as acting A/D for RAIO, I plan on holding monthly meetings with my team, just as Maura and I hold monthly all hands meetings with IO HQ staff. This was understood to mean all

RAIO staff. Then the cancelation led to some rumors of some other motive. It was pure miscommunication. I am trying hard to get ahead of all rumors and stop them as soon as I hear them. There also has been a bit of miscommunication about a potential Town Hall with Lori Scialabba. We are working to clarify plans with the front office and will provide more info shortly. Things are moving fast and furious here at HQ, so I appreciate everyone's patience when communication mistakes are made. We are truly acting with the best of intentions.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

 (b)(6)

Lonegan, Bryan K

From: Busch, Philip B
Sent: Wednesday, February 08, 2017 10:47 AM
To: Smith, Alice J; OCC-Clearance; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver
Attachments: waiver process

Would appreciate any thoughts on what is attached. Thanks, Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

 (b)(6)

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From: Smith, Alice J
Sent: Tuesday, February 07, 2017 7:29 PM
To: Busch, Philip B; OCC-Clearance; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Thank you, Phil. I know that must have been a bit of torture trying to pull together so much of our simultaneous "ECN-ing" (I like that term ☺).

General question, and I fully recognize this may well have been raised and nixed in other discussions about this E.O. waiver process. If so, please feel free to say "thank you for playing, Alice, time to move on": (b)(5)

[REDACTED]

Thanks again,
Alice

(b)(5)

From: Busch, Philip B

Sent: Tuesday, February 07, 2017 6:25 PM

To: OCC-Clearance; Smith, Alice J; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Subject: RE: Waiver

Thanks all for your careful review and input. Attached FYI is what I just sent back to SCOPs et al. I used the OPS documents as a baseline as they requested – have tried to capture the key points made in the OCC comments and edits, while trying to trim them down a bit to eliminate some of the redundancy, back and forth, etc. that inevitably arise when lots of people are EC'ing (is that a verb? I guess it is now) on short notice simultaneously, so as not to overwhelm the recipients. Let me know if you think I've missed anything essential. Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

[REDACTED]

(b)(6)

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From: Hinds, Ian G On Behalf Of OCC-Clearance

Sent: Tuesday, February 07, 2017 2:52 PM

To: Smith, Alice J; Busch, Philip B; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Cc: OCC-Clearance

Subject: RE: Waiver

I defer to Phil/Molly on how they want to handle this.

From: Smith, Alice J

Sent: Tuesday, February 07, 2017 2:49 PM

To: Busch, Philip B; Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Cc: OCC-Clearance

Subject: RE: Waiver

I've made my comments, as I know PE and a few others have, to the ecn. Before this goes back, I think it needs a final OCC reviewer (is that you Ian ?) to clean up some places where we were editing on top of each other and it's choppy.

Thanks,
Alice

From: Busch, Philip B
Sent: Tuesday, February 07, 2017 1:02 PM
To: Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Cc: OCC-Clearance
Subject: RE: Waiver

Adding ALD

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



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Cc: OCC-Clearance
Subject: RE: Waiver

[Here is the link.](#)

From: Busch, Philip B
Sent: Tuesday, February 07, 2017 12:53 PM
To: Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Could someone put this on an ECN for our comments? Thanks, Phil

Philip B. Busch
Acting Deputy Chief Counsel

Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

[REDACTED] (b)(6)

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From: Hinds, Ian G
Sent: Tuesday, February 07, 2017 12:52 PM
To: Groom, Molly M; Kleczek, Marguerite P (Ania); Busch, Philip B; Loneyan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Here is what we just received from SCOPS. They want comments by 3 pm.

From: Groom, Molly M
Sent: Monday, February 06, 2017 10:36 PM
To: Kleczek, Marguerite P (Ania); Busch, Philip B; Loneyan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver (b)(5)

That was the plan discussed. SCOPS was given flexibility on how to set it up so we will comment on what they provide. [REDACTED]

[REDACTED]

Let's see what they come up with and I look forward to learning more about our best recommendations. Thanks so much for us know and careful work on this front.

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 10:28:58 PM
To: Busch, Philip B; Loneyan, Bryan K; Groom, Molly M; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver (b)(5)

Based on what Phil said offline, just confirming that [REDACTED]

[REDACTED]

From: Busch, Philip B
Sent: Monday, February 06, 2017 4:36 PM
To: Kleczek, Marguerite P (Ania); Loneyan, Bryan K; Groom, Molly M; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E;

Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

Just had a call with Lori, etc. and CBP and OGC. SCOPs is going to put together a paper by tomorrow on how they think this could be implemented using advance parole. Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

[REDACTED] (b)(5)

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 3:29 PM
To: Loneyan, Bryan K; Groom, Molly M; Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

Thanks, Bryan, for finding that case law. Much appreciated!

(b)(5)

I think [REDACTED]
[REDACTED]

From: Loneyan, Bryan K
Sent: Monday, February 06, 2017 3:11 PM
To: Groom, Molly M; Kleczek, Marguerite P (Ania); Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

(b)(5)

Sorry, I was not clear. [REDACTED]
[REDACTED]

From: Groom, Molly M
Sent: Monday, February 06, 2017 3:04 PM
To: Kleczek, Marguerite P (Ania); Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

[REDACTED] (b)(5)

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 3:01:27 PM

To: Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

Phillip, Monica, and I have come up with these options—We agree to step away from proposing use of the I-192. Instead consider the following:

(b)(5)

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 2:42 PM

To: Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

What a great find! Do you have any experience with using that exception?

From: Elder, Phillip D

Sent: Monday, February 06, 2017 2:40 PM

To: Kleczek, Marguerite P (Ania); Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 2:32 PM

To: Busch, Philip B; Vignier, Monica A; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Busch, Philip B

Sent: Monday, February 06, 2017 2:17 PM

To: Kleczek, Marguerite P (Ania); Vignier, Monica A; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K

Subject: RE: Waiver

(b)(5)

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)

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From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 2:08 PM

To: Vignier, Monica A; Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Vignier, Monica A

Sent: Monday, February 06, 2017 2:00 PM

To: Kleczek, Marguerite P (Ania); Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K

Subject: RE: Waiver

(b)(5)

Monica A. Vignier
Associate Counsel USCIS-OCC

(b)(5)

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 1:52 PM
To: Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K; Vignier, Monica A
Subject: RE: Waiver

Adding Monica.

See the latest we've have learned on this. Please see attached.

What's the authority for CBP to turn folks around at POEs? I feel like I'm missing the answer to that basic question.

From: Busch, Philip B
Sent: Monday, February 06, 2017 10:54 AM
To: Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K
Subject: RE: Waiver

(b)(5)

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(5)

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From: Elder, Phillip D
Sent: Monday, February 06, 2017 10:00 AM
To: Groom, Molly M; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K
Subject: RE: Waiver

(b)(5)

From: Groom, Molly M

Sent: Monday, February 06, 2017 9:54 AM

To: Elder, Phillip D; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

Thanks all—but do we think any of our current forms could be used to adjudicate the national interest standard—which at this point we aren't clear on what it is. But if someone concluded that the waiver was in the national interest where someone needed to travel and showed urgent humanitarian reasons or SPB, could we then use the 131 for the waiver decision? And how would that work if folks who needed the waiver couldn't currently apply for the 131?

From: Elder, Phillip D

Sent: Monday, February 06, 2017 9:24 AM

To: Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

Molly,

Executive Order 13769, section 3, paragraph (g), states, "Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked."

(b)(5)

Let me know if you need anything else.

Thanks,
Phillip

From: Busch, Philip B
Sent: Monday, February 06, 2017 9:13 AM
To: Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Hinds, Ian G; Roll, Annemarie E; Loneygan, Bryan K
Subject: RE: Waiver

I think CBP has been freely using this one at the ports on its own.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)

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From: Miller, Caitlin E
Sent: Monday, February 06, 2017 9:06 AM
To: Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Roll, Annemarie E; Loneygan, Bryan K
Subject: RE: Waiver

I have one issue, although I am not sure if it has been decided already. The EO says in Sec. 3(g):

"the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked."

The use of and seems like the EO could be read to either 1) require both DHS and DOJ to jointly agree to waivers; or 2) provide independent authority for DHS and DOS to grant waivers. (b)(5)

Caitlin Miller (formerly Shay)
Associate Counsel, Litigation and National Security Coordination Division
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Ave., NW, Suite 3100
Mail Stop 2121
Washington, DC 20529-2121

(b)(6)

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 8:00 AM
To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneygan, Bryan K
Subject: RE: Waiver

Will try!

From: Groom, Molly M
Sent: Monday, February 06, 2017 7:59 AM
To: Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneygan, Bryan K
Subject: RE: Waiver

Can you sketch it out in next hour?

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 7:58:07 AM

To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

RVLD can start figuring out a process.

From: Groom, Molly M

Sent: Sunday, February 05, 2017 11:27 PM

To: Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Thanks Alice. No need to cancel anything at 9 tomorrow as the call was at 9 tonight but limited lines. Waiting to hear from Lori. All the information is helpful. If anyone—Evan? Could synthesize issues with creating process for individuals to apply for a waiver under the EO that would be good—regardless of which part of DHS does it.

From: Smith, Alice J

Sent: Sunday, February 05, 2017 11:18 PM

To: Ooi, Maura M; Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

Will try to join you at 9 am. but have outside appt. I may not be able to cancel.

Alice

2

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 9:19:47 PM

To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

I believe [REDACTED]
[REDACTED]

From: Groom, Molly M
Sent: Sunday, February 05, 2017 9:09:17 PM
To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Is the information collection required by OMB or any statute? All help appreciated.

From: Ooi, Maura M
Sent: Sunday, February 05, 2017 9:07:50 PM
To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

I was just thinking [REDACTED]
[REDACTED]

(b)(5)

From: Groom, Molly M
Sent: Sunday, February 05, 2017 8:58:16 PM
To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

What PRA issues might you envision? Simple and straightforward appreciated. And just throw it out even if you are just flagging

From: Ooi, Maura M
Sent: Sunday, February 05, 2017 8:55:52 PM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Also, as for broader legal issues with USCIS adjudicating these waiver requests, and along the lines of the rule making issues Evan raised [REDACTED]

[REDACTED] I defer to Phillip on that, but wanted to flag it.

(b)(5)

From: Zengotitabengoa, Colleen R
Sent: Sunday, February 05, 2017 8:34:46 PM
To: Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Ooi, Maura M; Miller,

Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Groom, Molly M

Sent: Sunday, February 05, 2017 8:01:11 PM

To: Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

Subject: RE: Waiver

(b)(5)

Thought on issues with agreeing to this statement?

From: Franke, Evan R

Sent: Sunday, February 05, 2017 7:28:36 PM

To: Groom, Molly M; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

Subject: RE: Waiver

Thanks!

From: Groom, Molly M

Sent: Sunday, February 05, 2017 7:20:49 PM

To: Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

Subject: RE: Waiver

(b)(5)

Many thanks.

Still we need to discuss with CBP and maybe OGC at 9. If that happens I will send a number.

From: Franke, Evan R

Sent: Sunday, February 05, 2017 7:15:01 PM

To: Groom, Molly M; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

Subject: RE: Waiver

(b)(5)

All,

Sorry this is not more coherent, but I wanted to start articulating thoughts.

Regards,

Evan

From: Groom, Molly M

Sent: Sunday, February 05, 2017 5:55:13 PM

To: Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Franke, Evan R; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: Waiver

Looking for quick thoughts on legal issues if we were asked to adjudicate waivers under the EO at section 3 for the 7 countries in the national interest.

Knowing what we know from DACA, what should we be thinking about. This is a tonight issue so what thoughts you have would be appreciated.

Lonegan, Bryan K

From: Elder, Phillip D
Sent: Tuesday, February 07, 2017 12:53 PM
To: Groom, Molly M; Busch, Philip B; Zengotitabengoa, Colleen R; Lonegan, Bryan K; Vignier, Monica A; Kleczek, Marguerite P (Ania); Tellawi, Heba K; Zimonjic, Milica
Subject: RE: Draft of Exception Process - EO

I'll put this in the RVLD ECN and send the link to this group to work on.

From: Groom, Molly M
Sent: Tuesday, February 07, 2017 12:49 PM
To: Busch, Philip B; Zengotitabengoa, Colleen R; Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Kleczek, Marguerite P (Ania); Tellawi, Heba K; Zimonjic, Milica
Subject: FW: Draft of Exception Process - EO

Sorry if I missed anyone. I don't believe I will be back in the office by 3.

From: Campagnolo, Donna P
Sent: Tuesday, February 07, 2017 12:44 PM
To: Rosenstock, Peter L; Meckley, Tammy M; Davidson, Andrew J; Levine, Laurence D; Rather, Michael B; Groom, Molly M; Busch, Philip B; Zengotitabengoa, Colleen R; Hinds, Ian G
Cc: Renaud, Daniel M; Valverde, Michael; McCament, James W; Neufeld, Donald W; Farnam, Julie E; Young, Todd P; Walters, Jessica S
Subject: RE: Draft of Exception Process - EO

Hi all. Adding in OCC and Policy and Strategy...

As well, attached is an updated version based on some feedback received already.

Please send your comments back by 3:00 today. That way we can incorporate them and get the final draft to Lori this afternoon.

Thanks in advance.

Donna Campagnolo
HQ Service Center Operations

From: Campagnolo, Donna P
Sent: Tuesday, February 07, 2017 10:30 AM
To: Rosenstock, Peter L; Meckley, Tammy M; Davidson, Andrew J
Cc: Renaud, Daniel M; Valverde, Michael; McCament, James W; Neufeld, Donald W; Farnam, Julie E; Young, Todd P; Walters, Jessica S
Subject: Draft of Exception Process - EO

All: Based on yesterday's discussions for EO, attached is a draft from SCOPS on what might work if we were required to develop an exception for folks that are here in the US, but may need to travel for work and student reasons. Can you please take a look from your perspective and let us know if you have any concerns? Its due to the Department this afternoon, so we will need a response as quickly as possible. So sorry for the quick turnaround on this.

Appreciate your help.

Donna Campagnolo
HQ Service Center Operations

Lonegan, Bryan K

From: Zengotitabengoa, Colleen R
Sent: Saturday, January 28, 2017 10:04 PM
To: Lonegan, Bryan K; Groom, Molly M; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

If that doesn't work try www.aclu.org/legal-document/darweesh-v-trump-order.

From: Zengotitabengoa, Colleen R
Sent: Saturday, January 28, 2017 10:00:28 PM
To: Lonegan, Bryan K; Groom, Molly M; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

Link to nationwide TRO bit.ly/2jqMT8K

From: Lonegan, Bryan K
Sent: Saturday, January 28, 2017 9:50:47 PM
To: Groom, Molly M; Zengotitabengoa, Colleen R; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

Ha! Can't even get on the EDNY's page.

From: Groom, Molly M
Sent: Saturday, January 28, 2017 9:44:43 PM
To: Lonegan, Bryan K; Zengotitabengoa, Colleen R; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

Hannen?

From: Lonegan, Bryan K
Sent: Saturday, January 28, 2017 9:43:15 PM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

I would expect the stay to be posted in ACLU's website, but it's not there yet.
Issued by Ann Donnelly, former NY DA, appointed only in 2015

From: Zengotitabengoa, Colleen R
Sent: Saturday, January 28, 2017 9:40:13 PM
To: Groom, Molly M; Lonegan, Bryan K; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order

Saw the ACLU attorneys speak after stay granted. They said the stay is for those who already arrived and are currently detained at airports.

From: Groom, Molly M
Sent: Saturday, January 28, 2017 9:28:54 PM
To: Lonegan, Bryan K; Zengotitabengoa, Colleen R; Busch, Philip B; Franke, Evan R
Subject: RE: Executive Order


Ok stay granted. Scope unknown. Expecting CBP to update so hang tight.

From: Groom, Molly M
Sent: Saturday, January 28, 2017 9:11:19 PM
To: Lonegan, Bryan K; Zengotitabengoa, Colleen R; Busch, Philip B; Franke, Evan R
Subject: FW: Executive Order

Anyone know anything on this front. I heard they let one of two guys in and were working on same for second guy, so not sure this makes sense.

From: Levine, Laurence D
Sent: Saturday, January 28, 2017 9:08:36 PM
To: Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

I've only seen this on Twitter, but it looks like a judge in EDNY has granted a nationwide stay of the refugee EO. I haven't been able to nail down a copy of the actual order, so I have no actual details. Anyone else hear anything?

Larry Levine
Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security


(b)(6)

From: Neufeld, Donald W
Sent: Saturday, January 28, 2017 12:54:08 PM
To: Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Yes, thanks. I've shared with my folks too.

From: Walters, Jessica S
Sent: Saturday, January 28, 2017 12:41:04 PM
To: Renaud, Daniel M
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Thanks very much.

Jessica S. Walters
Senior Advisor
Office of the USCIS Deputy Director
U.S. Citizenship and Immigration Services

[REDACTED] (b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:34:16 AM
To: Walters, Jessica S
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M
Subject: FW: Executive Order

FOD will be using the attached matrix to help identify questions and track implementation timelines. You may find it useful as well as we identify questions, develop guidance, and implementation plans.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Slattery, Shannon E
Sent: Saturday, January 28, 2017 12:16:07 PM
To: Valverde, Michael; Renaud, Daniel M
Cc: Farnam, Julie E; Kvortek, Lisette E
Subject: RE: Executive Order

The attached document is a matrix breaking down the EO into its component parts and action items. I've added columns for QAs and started compiling those I saw come across this morning and some early ones I saw from Div. 1.

The Policy and general objectives language at the beginning pulls key language from the EO for quick reference when we're drafting statements. The date conversion chart indicates the calendar dates associated with any specific timeframe mentioned in the EO.

I am working to convert this to Excel over the weekend so it's a little more scalable, but wanted to pass it on for initial use.

Please let me know if you have any questions or see anything that needs editing.

Thanks,

Shannon E. Slattery
Field Operations Directorate | U.S. Citizenship and Immigration Services

[REDACTED] (b)(6)

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From: Valverde, Michael
Sent: Saturday, January 28, 2017 11:42 AM
To: Renaud, Daniel M; Kvortek, Lisette E
Cc: Farnam, Julie E; Slattery, Shannon E
Subject: RE: Executive Order

For section 4, do we need to take any actions prior to the "plan" described in section four being developed and implemented? And who is responsible for developing the plan?

For section 6, should we adjudicate cases in TRIG hold? It doesn't seem like exemptions are forthcoming.

Michael Valverde
DHS USCIS
Field Operations Directorate, Deputy Associate Director

(b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:34:15 AM
To: Kvortek, Lisette E
Cc: Valverde, Michael; Farnam, Julie E; Slattery, Shannon E
Subject: FW: Executive Order
To start and just on this part of the EO:

1. Are the following forms impacted: N-400s, N-336, I-601A, I-131, I-765, N-565, I-130, ...?
2. Should we deschedule oath ceremonies for individuals from the 7?
3. How do we handle N-400s 120+ days from interview?
4. Should we stop RFEs?
5. Should we stop scheduling interviews?

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Renaud, Tracy L
Sent: Saturday, January 28, 2017 11:21:12 AM
To: Ruppel, Joanna; Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: McCament, James W; Nicholson, Maura J; Kliska, Jennifer R; Walters, Jessica S
Subject: RE: Executive Order

Everyone should be compiling a list of all of their questions and getting them to Jess so Lori and I have a complete list. If there are URGENT questions that we need answers to before Monday go ahead and flag those for us but I'm not sure the Department is going to get to us immediately, they are likely dealing with issues at the POEs which have a bit more urgency. I did send the question of whether this impact naturalization or not to the Department in an attempt to get an answer this weekend only because we have oath ceremonies scheduled for Monday.

Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services

From: Ruppel, Joanna

Sent: Saturday, January 28, 2017 9:54 AM

To: Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D

Cc: Renaud, Tracy L; McCament, James W; Nicholson, Maura J; Kliska, Jennifer R

Subject: RE: Executive Order

I would also like to flag I-730s. While adjudication does not give status to those outside the US, it does for those inside. Also, since part of the directive is to reviewing to enhance information we collect and screening, we likely will be proposing changes to the I-730 process, to include revisions to the form and the I-730A, which would be completed by the beneficiary. We have mock ups and can move quickly, but need to think first about those in pipeline. Maura has giving directive to staff outside US to cancel pick up document pickups for 730s for next week.

We are working on further guidance and of course will coordinate with SCOP.

State has also issued guidance. Will forward.

Joanna

Joanna Ruppel

Chief, International Operations Division

U.S. Citizenship and Immigration Services

(b)(6)

From: Neufeld, Donald W

Sent: Friday, January 27, 2017 5:34:17 PM

To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D

Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

I can do that but I think it's the same as what I've mentioned. It would be good to have time to consult with others. Can I get it to you on Monday?

And, in the meantime can I get something to the centers this weekend? I can share a draft email tomorrow.

From: Scialabba, Lori L

Sent: Friday, January 27, 2017 8:04:01 PM

To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer; Renaud, Daniel M; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D

Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

O.K. Take Jennifer off the email chains. Don, I want one document with all your issues. Same goes for Dan, Joanna/Barbara and Matt/Andrew. We'll start regular meetings next week.

Lori

From: Neufeld, Donald W

Sent: Friday, January 27, 2017 8:00 PM

To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

For clarity, what would be suspended are I-485s, I-539s, I-129s and I-131s. If I'm missing something please let me know.

From: Neufeld, Donald W

Sent: Friday, January 27, 2017 7:56:01 PM

To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

I can get word out over the weekend to the centers to suspend processing. I just need the list of 7 countries to include in my message. The Directors are already on notice of the possibility. I would exclude from the suspension any petitions for beneficiaries abroad and TPS/DACA.

From: Scialabba, Lori L

Sent: Friday, January 27, 2017 7:31:26 PM

To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L

Subject: RE: Executive Order

I think the answer to the first two is yes they are impacted for the 7 countries identified. Not sure about petitions for beneficiaries abroad. I'll ask.

From: Neufeld, Donald W

Sent: Friday, January 27, 2017 7:26 PM

To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L

Subject: RE: Executive Order

Thanks for sending this, Lori.

As we've discussed, the most urgent question is whether adjustments and extensions or changes of nonimmigrant status are impacted. Separately, is there any impact on petitions for beneficiaries abroad since we would not be determining admissibility? I would think not, but it would be good to have clarity.

From: Scialabba, Lori L

Sent: Friday, January 27, 2017 5:59:36 PM

To: Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L; Neufeld, Donald W

Subject: RE: Executive Order

I think that's o.k. and going forward don't schedule these for interviews.

From: Renaud, Daniel M

Sent: Friday, January 27, 2017 5:47 PM

To: Scialabba, Lori L; Higgins, Jennifer

Cc: Renaud, Tracy L; Neufeld, Donald W

Subject: RE: Executive Order

If we can define "suspend processing" as "suspend prior to approval", then one option would be to continue with the interviews, since it is likely we have some that are scheduled as soon as Monday for affected applicants and then hold the cases post interview. We are trying to scrape our schedulers (C4 and NASS) to see when and where we have interviews scheduled for individuals from affected countries. We should have that sometime Monday.

Daniel M. Renaud

Associate Director, Field Operations Directorate

Department of Homeland Security | U.S. Citizenship and Immigration Services

From: Scialabba, Lori L

Sent: Friday, January 27, 2017 12:43 PM

To: Higgins, Jennifer

Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M

Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant by [REDACTED]

From: Davidson, Andrew J
Sent: Friday, January 27, 2017 12:37 PM
To: Renaud, Tracy L
Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
Subject: Executive Order

Tracy,

It is my understanding that POTUS will sign the "Protecting the Nation from Terrorist Attacks by Foreign Nationals" order today at 4:30pm. In complying with the EA I believe we need immediate clarification in Section 3 (c) relative to the 30 day suspension of processing immigrants and non-immigrants from the designated countries of interest and if this extends to processing of permanent resident applications. Though the EA states "immigrant and non-immigrant entry into the United States" once we grant an adjustment we "admit" that person. [REDACTED]

We just need to clarify if by extension this applies to our product lines. If this is the case then Don and Dan will need to get guidance to the Field to put these adjudications on hold. Other than the refugee suspension that appears fully deployed on our end this appears the most urgent clarification we need relative to the EAs.

(b)(5)

Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[REDACTED] (b)(6)

Lonegan, Bryan K

From: Lonegan, Bryan K
Sent: Wednesday, February 08, 2017 8:58 AM
To: Whitney, Ronald W; Busch, Philip B; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: Follow up thoughts on litigation

(b)(5)

Just wanted to share this

From: Whitney, Ronald W
Sent: Sunday, February 05, 2017 9:57 PM
To: Lonegan, Bryan K; Busch, Philip B; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: Follow up thoughts on litigation

(b)(5)

--Ron

From: Lonegan, Bryan K
Sent: Sunday, February 05, 2017 5:05 PM
To: Whitney, Ronald W; Busch, Philip B; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: Follow up thoughts on litigation

From: Whitney, Ronald W
Sent: Sunday, February 05, 2017 7:33:56 PM
To: Busch, Philip B; Groom, Molly M; Zengotitabengoa, Colleen R; Lonegan, Bryan K
Subject: RE: Follow up thoughts on litigation

Go Falcons.

--Ron

From: Busch, Philip B
Sent: Sunday, February 05, 2017 11:02 AM
To: Groom, Molly M; Zengotitabengoa, Colleen R; Lonegan, Bryan K; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

(b)(5)

From: Groom, Molly M
Sent: Sunday, February 05, 2017 1:30:44 PM
To: Busch, Philip B; Zengotitabengoa, Colleen R; Lonegan, Bryan K; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

(b)(5)

It may be and we will figure that out.

From: Busch, Philip B
Sent: Sunday, February 05, 2017 12:37:04 PM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Lonegan, Bryan K; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

(b)(5)

I was thinking about this question while churning up and down the Yorktown pool this morning.

[Redacted]

Phil

From: Zengotitabengoa, Colleen R
Sent: Sunday, February 05, 2017 11:35:19 AM
To: Groom, Molly M; Lonegan, Bryan K; Busch, Philip B; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

Will do.

From: Groom, Molly M
Sent: Sunday, February 05, 2017 11:01:22 AM
To: Lonegan, Bryan K; Zengotitabengoa, Colleen R; Busch, Philip B; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

Colleen I think you should reach out to Meg and see what she has in mind.

From: Lonegan, Bryan K
Sent: Sunday, February 05, 2017 10:40:53 AM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Busch, Philip B; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

(b)(5)

[Redacted]

From: Lonegan, Bryan K
Sent: Sunday, February 05, 2017 10:31:11 AM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Busch, Philip B; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

(b)(5)

Yes, discussions with DOJ folks would be mutually beneficial

[Redacted]

[REDACTED]

From: Zengotitabengoa, Colleen R
Sent: Sunday, February 05, 2017 10:16:51 AM
To: Groom, Molly M; Lonegan, Bryan K; Busch, Philip B; Whitney, Ronald W
Subject: RE: Follow up thoughts on litigation

Does Meg want us to join discussion with DOJ establishment clause expert? Would be good if we can.

From: Groom, Molly M
Sent: Sunday, February 05, 2017 8:52:15 AM
To: Zengotitabengoa, Colleen R; Lonegan, Bryan K; Busch, Philip B; Whitney, Ronald W
Subject: FW: Follow up thoughts on litigation

Colleen/Bryan/Ron-

Can you all dig deeper on this issue and continue the discussions with DOS. Meg P. wants to have discussion with DOJ establishment expert at that seems like good idea [REDACTED]

[REDACTED] (b)(5)

From: Strack, Barbara L
Sent: Sunday, February 05, 2017 8:44:37 AM
To: Groom, Molly M; Ruppel, Joanna; Stone, Mary M; Busch, Philip B
Subject: Follow up thoughts on litigation

All -

I wanted to follow up w/you on some issues related to yesterday's litigation call, with the understanding that this communication is protected by attorney/client privilege. In particular, I want to focus on the "religious minority" language. (b)(5)



Wanted to share this thinking and bring Joanna and MM into the loop before I leave for vacation later today,
Barbara

From: Groom, Molly M
To: Busch, Philip B; Elder, Phillip D; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K
Subject: RE: Waiver
Date: Monday, February 06, 2017 10:56:53 AM

So let's suggest that along with the waiver discussion—I sent you a version of an email to review—so we can include it there. Let me know when you've had a chance to look at it.

From: Busch, Philip B
Sent: Monday, February 06, 2017 10:54 AM
To: Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K
Subject: RE: Waiver

Take a look at the I-192 – advance permission for a nonimmigrant with documentation to enter. It's not exact, but this one seems to me to be by far the best fit for this process. And unless one is seeking T status, it's filed with CBP.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



(b)(6)

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From: Elder, Phillip D
Sent: Monday, February 06, 2017 10:00 AM
To: Groom, Molly M; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K
Subject: RE: Waiver

While I know that a nonimmigrant often shows up at the POE and then CBP makes them fill out an I-212, 193, or 192, I'm not sure this is the same or that we can use this form for this waiver, or that we can require a fee.

Below I said that if USCIS decides to use an existing process or form that very closely fits what is necessary that can be easily adapted without change to the 3.(g) waiver process, the PRA does not

apply.

But if we are imposing a form and fee, even if it is the I-612 or I-131, on someone who already has a visa, who has never had to submit that form and fee before, that would implicate the APA. However, those concerns would be mitigated somewhat if Lori exempts the from the fee.

From: Groom, Molly M

Sent: Monday, February 06, 2017 9:54 AM

To: Elder, Phillip D; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

Thanks all—but do we think any of our current forms could be used to adjudicate the national interest standard—which at this point we aren't clear on what it is. But if someone concluded that the waiver was in the national interest where someone needed to travel and showed urgent humanitarian reasons or SPB, could we then use the 131 for the waiver decision? And how would that work if folks who needed the waiver couldn't currently apply for the 131?

From: Elder, Phillip D

Sent: Monday, February 06, 2017 9:24 AM

To: Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

Molly,

Executive Order 13769, section 3, paragraph (g), states, "Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked."

(b)(5)

Once USCIS has decided what process it will follow, RVLD can advise on the procedural requirements under the PRA and APA for the process to be legally sufficient.

Let me know if you need anything else.

Thanks,
Phillip

From: Busch, Philip B

Sent: Monday, February 06, 2017 9:13 AM

To: Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Hinds, Ian G; Roll, Annemarie E; Loneygan, Bryan K

Subject: RE: Waiver

I think CBP has been freely using this one at the ports on its own.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

(b)(6)

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From: Miller, Caitlin E

Sent: Monday, February 06, 2017 9:06 AM

To: Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotita Bengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

I have one issue, although I am not sure if it has been decided already. The EO says in Sec. 3(g):

"the Secretaries of State and Homeland Security may, on a case-by-case basis, and **when in** the national interest, issue visas or other immigration benefits to nationals of countries for **which** visas and benefits are otherwise blocked."

The use of and seems like the EO could be read to either 1) require both DHS and DOJ to jointly agree to waivers; or 2) provide independent authority for DHS and DOS to grant waivers.

(b)(5)



Caitlin Miller (formerly Shay)
Associate Counsel, Litigation and National Security Coordination Division
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Ave., NW, Suite 3100
Mail Stop 2121
Washington, DC 20529-2121



(b)(6)

(b)(6)

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 8:00 AM
To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Will try!

From: Groom, Molly M
Sent: Monday, February 06, 2017 7:59 AM
To: Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Can you sketch it out in next hour?

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 7:58:07 AM
To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

RVL can start figuring out a process.

From: Groom, Molly M
Sent: Sunday, February 05, 2017 11:27 PM
To: Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Thanks Alice. No need to cancel anything at 9 tomorrow as the call was at 9 tonight but limited lines. Waiting to hear from Lori. All the information is helpful. If anyone—Evan? Could synthesize issues with creating process for individuals to apply for a waiver under the EO that would be good—regardless of which part of DHS does it.

From: Smith, Alice J
Sent: Sunday, February 05, 2017 11:18 PM
To: Ooi, Maura M; Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan

K

Subject: RE: Waiver

Phillip can confirm but I think it's 5 CFR Part 1320 that contains the PRA implementing regulatory requirements for "information collections," including any expedited OMB approvals. Generally requires notice and comment though time frames can be truncated. Regs say that unless an OMB control number has been assigned to an info collection, then adverse action based on the info collection cannot be taken against person. So might give a hyper-technical way for a person denied a waiver to claim government erred if we had not jumped through the PRA hoops to get the OMB control number.

Off the wall qn: any chance advance parole process could be utilized to effectively provide vehicle for such a E.O. waiver if we were forced to handle them? I'm not crazy about it because of uncertainty as to what status/category CBP might then allow a person who should otherwise be in legit non-immig. status to enter (messes things up if he's "paroled") but I'm just thinking of what applications (aka "info collections") we might already have in place. Might need to create some broad fee waiver criteria, too.

Agree it's best if USCIS can avoid having to do these E. O. waivers and keep them at CBP.

Will try to join you at 9 am. but have outside appt. I may not be able to cancel.

Alice

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 9:19:47 PM

To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

I believe the Paperwork Reduction Act generally requires us to go through the OMB approval process for a new information collection, including publishing the information collection for notice and public comment. I'm definitely outside my swim lane with this, so I don't know if there are exceptions that might apply here..

From: Groom, Molly M

Sent: Sunday, February 05, 2017 9:09:17 PM

To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Is the information collection required by OMB or any statute? All help appreciated.

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 9:07:50 PM

To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B;

Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

I was just thinking that if we needed to be ready to accept requests very quickly given how fast things are moving, that wouldn't leave us much (or perhaps enough) time to go through the OMB approval process for this information collection

From: Groom, Molly M
Sent: Sunday, February 05, 2017 8:58:16 PM
To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

What PRA issues might you envision? Simple and straightforward appreciated. And just throw it out even if you are just flagging

From: Ooi, Maura M
Sent: Sunday, February 05, 2017 8:55:52 PM
To: Zengotitabengoa, Colleen R; Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Also, as for broader legal issues with USCIS adjudicating these waiver requests, and along the lines of the rule making issues Evan raised, there's the question of how people would make these requests to us - just with a letter? I would think we'd need a form for these requests, which could raise potential PRA issues. I defer to Phillip on that, but wanted to flag it.

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To: Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
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Subject: RE: Waiver

Thought on issues with agreeing to this statement? Assuming USCIS fights being the entity

to adjudicate such travel requests, we should still identify legal issues.

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Sent: Sunday, February 05, 2017 7:28:36 PM

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Subject: RE: Waiver

Thanks!

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Sent: Sunday, February 05, 2017 7:20:49 PM

To: Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

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Subject: RE: Waiver

All,

(b)(5)



Sorry this is not more coherent, but I wanted to start articulating thoughts.

Regards,

Evan

From: Groom, Molly M

Sent: Sunday, February 05, 2017 5:55:13 PM

To: Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Franke, Evan R; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonigan, Bryan K

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To: Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K
Subject: RE: Waiver
Date: Monday, February 06, 2017 10:54:19 AM
Attachments: i-192 (1).pdf
i-192instr.pdf

Take a look at the I-192 – advance permission for a nonimmigrant with documentation to enter. It's not exact, but this one seems to me to be by far the best fit for this process. And unless one is seeking T status, it's filed with CBP.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
J.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



(b)(6)

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From: Elder, Phillip D
Sent: Monday, February 06, 2017 10:00 AM
To: Groom, Molly M; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K
Subject: RE: Waiver

While I know that a nonimmigrant often shows up at the POE and then CBP makes them fill out an I-212, 193, or 192, I'm not sure this is the same or that we can use this form for this waiver, or that we can require a fee.

Below I said that if USCIS decides to use an existing process or form that very closely fits what is necessary that can be easily adapted without change to the 3.(g) waiver process, the PRA does not apply.

But if we are imposing a form and fee, even if it is the I-612 or I-131, on someone who already has a visa, who has never had to submit that form and fee before, that would implicate the APA. However, those concerns would be mitigated somewhat if Lori exempts the from the fee.

From: Groom, Molly M
Sent: Monday, February 06, 2017 9:54 AM
To: Elder, Phillip D; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi,

Maura M; Zengotitabengoa, Coleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

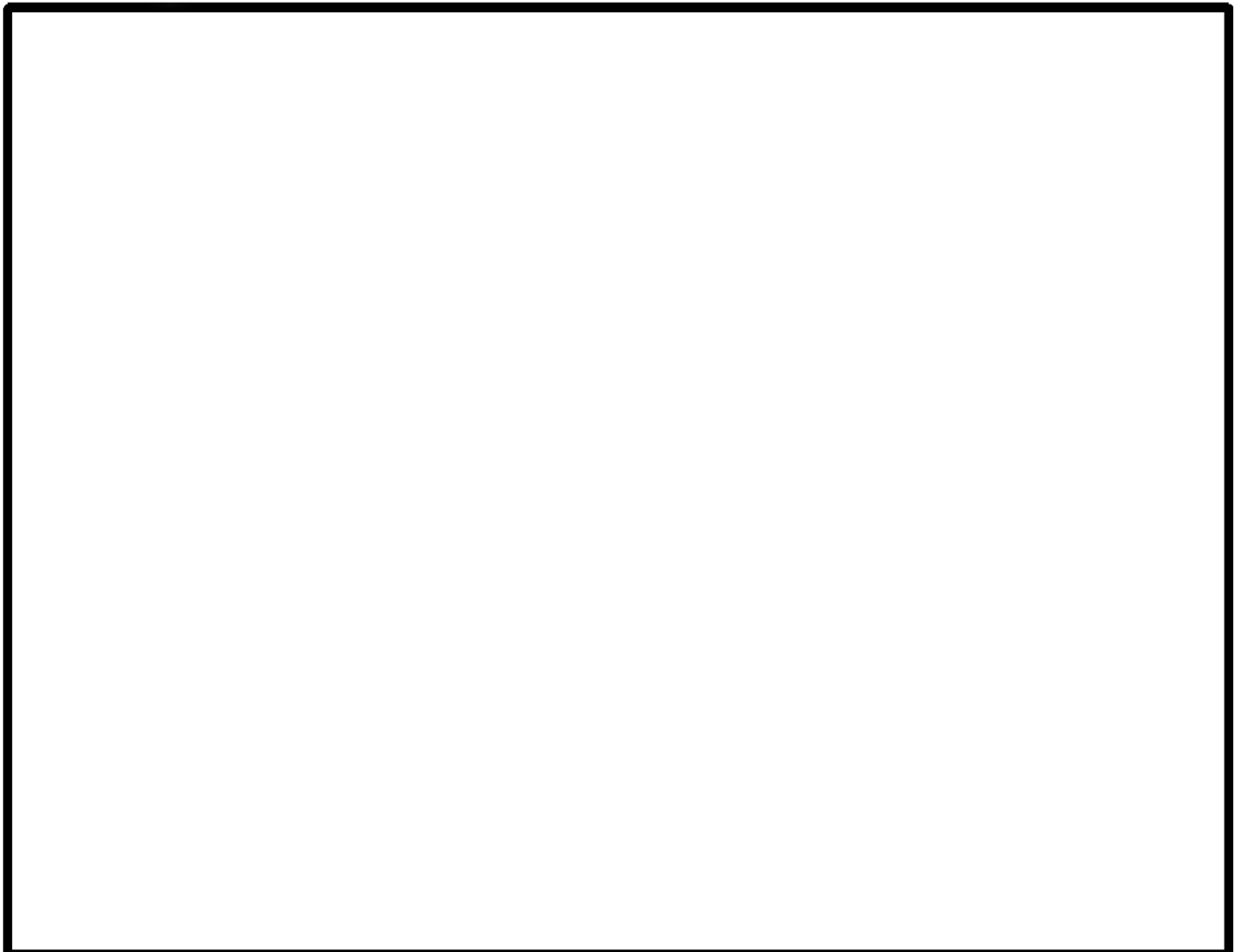
Thanks all—but do we think any of our current forms could be used to adjudicate the national interest standard—which at this point we aren't clear on what it is. But if someone concluded that the waiver was in the national interest where someone needed to travel and showed urgent humanitarian reasons or SPB, could we then use the 131 for the waiver decision? And how would that work if folks who needed the waiver couldn't currently apply for the 131?

From: Elder, Phillip D
Sent: Monday, February 06, 2017 9:24 AM
To: Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Coleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Molly,

Executive Order 13769, section 3, paragraph (g), states, "Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked."

(b)(5)





Once USCIS has decided what process it will follow, RVLD can advise on the procedural requirements under the PRA and APA for the process to be legally sufficient.

Let me know if you need anything else.

Thanks,
Phillip

From: Busch, Philip B
Sent: Monday, February 06, 2017 9:13 AM
To: Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Hinds, Ian G; Roll, Annemarie E; Loneygan, Bryan K
Subject: RE: Waiver

I think CBP has been freely using this one at the ports on its own.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



(b)(6)

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From: Miller, Caitlin E

Sent: Monday, February 06, 2017 9:06 AM

To: Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotita Bengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

I have one issue, although I am not sure if it has been decided already. The EO says in Sec. 3(g):

“the Secretaries of State and Homeland Security may, on a case-by-case basis, and **when** in the national interest, issue visas or other immigration benefits to nationals of countries for **which** visas and benefits are otherwise blocked.”

The use of and seems like the EO could be read to either 1) require both DHS and DOJ to jointly agree to waivers; or 2) provide independent authority for DHS and DOS to grant waivers.

(b)(5)

Caitlin Miller (formerly Shay)

Associate Counsel, Litigation and National Security Coordination Division

Office of the Chief Counsel

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security

111 Massachusetts Ave., NW, Suite 3100

Mail Stop 2121

Washington, DC 20529-2121

(b)(6)

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 8:00 AM
To: Groom, Molly M; Smith, Alice J; Oo, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Will try!

From: Groom, Molly M
Sent: Monday, February 06, 2017 7:59 AM
To: Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Can you sketch it out in next hour?

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 7:58:07 AM
To: Groom, Molly M; Smith, Alice J; Oo, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

RVLD can start figuring out a process.

From: Groom, Molly M
Sent: Sunday, February 05, 2017 11:27 PM
To: Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Thanks Alice. No need to cancel anything at 9 tomorrow as the call was at 9 tonight but limited lines. Waiting to hear from Lori. All the information is helpful. If anyone—Evan? Could synthesize issues with creating process for individuals to apply for a waiver under the EO that would be good—regardless of which part of DHS does it.

From: Smith, Alice J
Sent: Sunday, February 05, 2017 11:18 PM
To: Ooi, Maura M; Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Phillip can confirm but I think it's 5 CFR Part 1320 that contains the PRA implementing regulatory requirements for "information collections," including any expedited OMB approvals. Generally requires notice and comment though time frames can be truncated. Regs say that unless an OMB control number has been assigned to an info collection, then adverse action based on the info collection cannot be taken against person. So might give a hyper-technical way for a person denied a waiver to claim government erred if we had not jumped

through the PRA hoops to get the OMB control number.

Off the wall qn: any chance advance parole process could be utilized to effectively provide vehicle for such a E.O. waiver if we were forced to handle them? I'm not crazy about it because of uncertainty as to what status/category CBP might then allow a person who should otherwise be in legit non-immig. status to enter (messes things up if he's "paroled") but I'm just thinking of what applications (aka "info collections") we might already have in place. Might need to create some broad fee waiver criteria, too.

Agree it's best if USCIS can avoid having to do these E. O. waivers and keep them at CBP.

Will try to join you at 9 am. but have outside appt. I may not be able to cancel.

Alice

From: Ooi, Maura M
Sent: Sunday, February 05, 2017 9:19:47 PM
To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K
Subject: RE: Waiver

I believe the Paperwork Reduction Act generally requires us to go through the OMB approval process for a new information collection, including publishing the information collection for notice and public comment. I'm definitely outside my swim lane with this, so I don't know if there are exceptions that might apply here..

From: Groom, Molly M
Sent: Sunday, February 05, 2017 9:09:17 PM
To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K
Subject: RE: Waiver

Is the information collection required by OMB or any statute? All help appreciated.

From: Ooi, Maura M
Sent: Sunday, February 05, 2017 9:07:50 PM
To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K
Subject: RE: Waiver

I was just thinking that if we needed to be ready to accept requests very quickly given how fast things are moving, that wouldn't leave us much (or perhaps enough) time to go through the OMB approval process for this information collection

From: Groom, Molly M
Sent: Sunday, February 05, 2017 8:58:16 PM
To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

What PRA issues might you envision? Simple and straightforward appreciated. And just throw it out even if you are just flagging

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Sent: Sunday, February 05, 2017 8:55:52 PM
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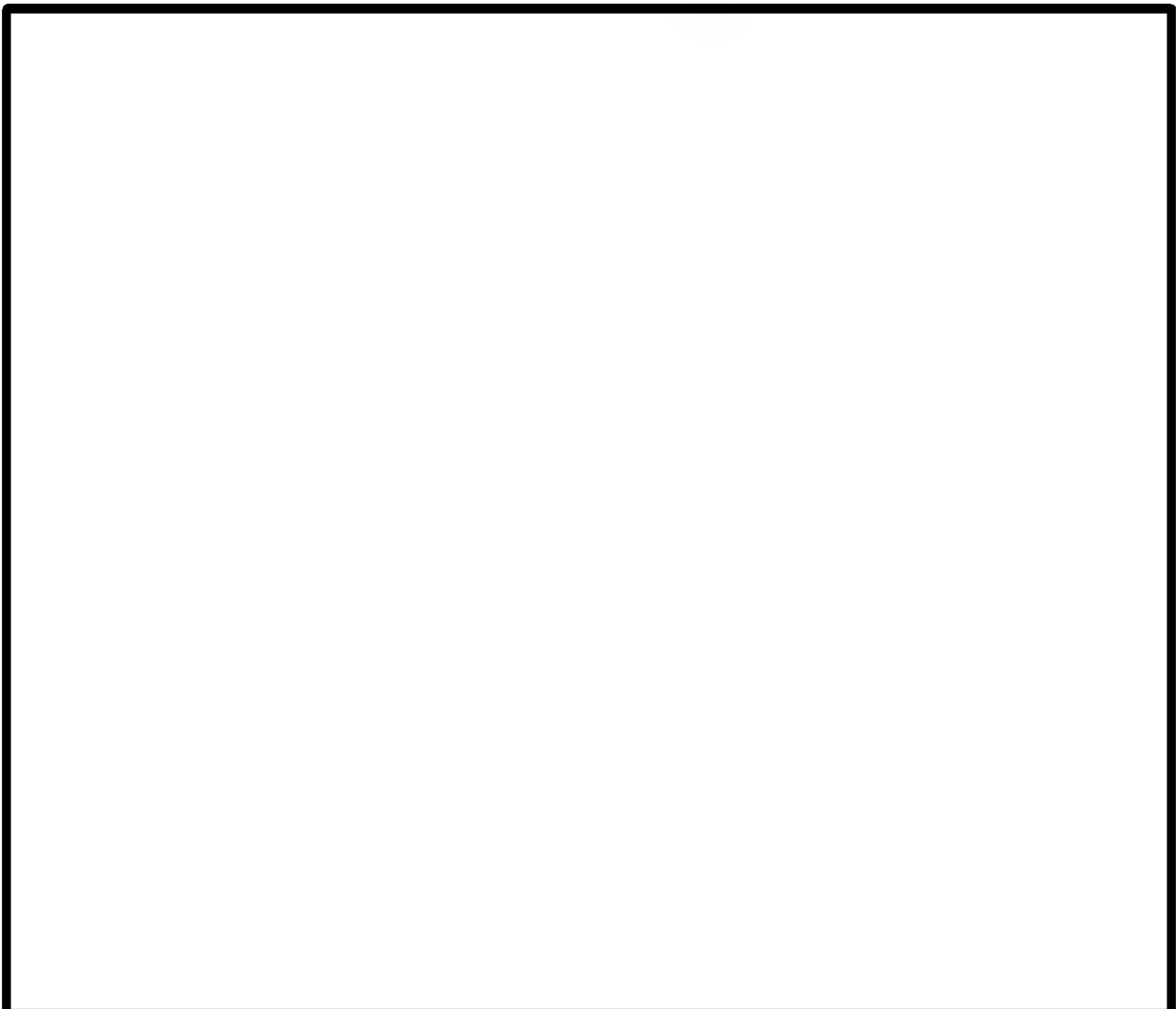
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Subject: RE: Waiver

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(b)(5)



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Subject: RE: Waiver
Date: Sunday, February 05, 2017 8:01:11 PM
Attachments: DRAFT Statement 020517.docx

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